

**CITY OF MIAMI BEACH
NOVEMBER 2, 2021 GENERAL AND SPECIAL ELECTIONS
AND
NOVEMBER 16, 2021 RUN-OFF ELECTION, IF NECESSARY**

**CANVASSING BOARD MEETING
AFTER-ACTION**

October 7, 2021 at 9:00 a.m.

City Manager's Large Conference Room
1700 Convention Center Drive, Fourth Floor
Miami Beach, Florida 33139

Canvassing Board Members:

Honorable Raul Cuervo, County Judge	Present
Rafael E. Granado, City Clerk	Present
Judy Hoanshelt, Qualified Elector	Present

Substitute and Alternate Members

Honorable Lizzet Martinez, County Judge	Absent
Farosha Andasheva, Qualified Elector	Present

Staff to Canvassing Board

Jean Olin, Esq., Outside Counsel	Present
Regis Barbou, Executive Office Associate II	Present

1. Welcome

- Introductions made.
- Oaths of Office signed and notarized.
- Identification Badges distributed and worn.

Clerk's Note:

Florida Statute 102.141(9) requires that each member, substitute member, and alternate member of the Canvassing Board and all clerical help must wear identification badges during any period in which the county canvassing board is canvassing votes or engaging in other official duties. The identification badges should be worn in a conspicuous and unobstructed area and include the name of the individual and their official position.

2. Meeting called to order at 9:31 a.m. by Jean Olin, Outside Counsel.

Jean Olin, Outside Counsel, called the meeting to order. She stated that this is the Canvassing Board Meeting for the City of Miami Beach November 2, 2021 General and Special Elections (and November 16, 2021 Run-Off Election, if necessary). Ms. Olin welcomed everyone. The purpose of today's meeting is to do a brief orientation. Ms. Olin thanked Judge Cuervo, City Clerk Granado, and Ms. Hoanshelt for their previous service on the City's Canvassing Board. Ms. Olin welcomed Ms. Andasheva as the alternate member.

3. Designation of Chairperson

The first order of business is designating the Chairperson. Although the Miami Beach Ordinance does not state who the Chairperson must be, the State Statute regarding the composition of the Canvassing Board is incorporated into the City's Ordinance. Pursuant to State Statute, the County Court Judge who is a member of the City's Canvassing Board is de facto Chairperson. For purposes of putting it on the record, Ms. Olin requested that a motion and second be made designating Judge Raul Cuervo as the Chairperson of the Canvassing Board.

MOTION TO DESIGNATE CHAIR:

Motion made by Judy Hoanshelt to designate Judge Raul Cuervo as the Chair of the Canvassing Board; seconded by Rafael E. Granado; approved unanimously.

4. Orientation

Ms. Olin explained that the City Clerk can confirm that this has been so far a busy election season in Miami Beach. There have been certain issues that have all been resolved as of right now. There was a challenge to a particular candidate in Group II, resulting in that candidate being disqualified. In the November 2 General Election, there is a contested Mayor's race, as well as in Groups I and III. In Group II, although the candidate has been disqualified, the names of both candidates in that Group will be on the ballot. The Elections Department was directed by the Court not to tabulate the votes in that Group nor to release an official tally of the Group. As such, the Canvassing Board will not be presented with any issues pertaining to the Group II Commission Seat.

City Clerk Granado stated that although no official results will be presented, the results of specific polling locations will be printed on the tally sheet, but not counted for an official result.

Judge Cuervo asked now that there has been one candidate disqualification, what happens to Group II?

Ms. Olin replied that the incumbent candidate will be deemed the winner because his only opponent was disqualified. Group II will be back on the ballot four years from now when Mark Samuelian is term-limited for that Seat.

Discussion continued on how the results for Group II will not be tabulated to be made official.

Ms. Olin stated that aside from the General Election, there will be a Special Election with four ballot questions. Three questions require 50% plus one of the vote and one requires 60% of the vote. The General Election could result in a recount on Election Night for Mayor or Groups I or III. A recount is triggered if any candidate is defeated or eliminated by $\frac{1}{2}$ of 1% or less of the total votes cast for an office or an if an issue was approved or rejected by $\frac{1}{2}$ of 1% or less of the total votes cast for on the issue. She reminded the Board that it is bound by the Canvassing Board laws, Sunshine Laws, and Public Records.

SUNSHINE LAW

Ms. Olin added that pursuant to the Sunshine Law, two or more Canvassing Board members may not engage in discussions (verbal or non-verbal) on any matter that could reasonably/potentially come before the Canvassing Board outside of a publicly noticed meeting. Ms. Olin added that when it doubt, Canvassing Board members should contact her for clarification.

PUBLIC RECORDS LAW

The Public Records Law is applicable to all Canvassing Board members. The Public Record law states that any documents made or received in the course of official business, as Canvassing Board

Members, is a public record. Individual notes, unless they are intended to perpetuate knowledge, are not deemed a public record.

Discussion held regarding the conflict of County Court Judges serving as alternates or substitutes on other Canvassing Boards.

The definition of canvassing is not so much the counting of ballots, it is the assessment of activities on Election Night. Observing presented ballots to make determinations to accept or deny a ballot, vote, or whether to have a recount. The primary duties can be summed up in three parts: pre-election, election, and post-election. Pre-election includes orientation and testing of equipment known as the Logic and Accuracy test. Not all members have to attend, but all must sign off on the approval of the equipment. Election duties include canvassing of Vote-by-Mail ballots, certification of election day results, and if necessary, recounts. The canvassing of provisional ballots is also included in these duties. Provisional ballots are ballots received by the Election's Supervisor Precinct by someone who cannot evidence that they have the right to vote at a particular location. That person can provide a provisional ballot subject to further confirmation to determine if that person is a registered elector and entitled to vote there and not have voted in another location. The Canvassing Board must use discretion regarding signature matching. There are many things to consider, including the location of the signature on the mailing envelope. There is a right to protest the actions of the Canvassing Board, which includes the review process of the Vote-by-Mail ballots. In absence of that post-election challenge, the candidate or qualified elector has ten days from midnight to file a lawsuit against the Board, which will be represented by in-house counsel.

Judge Cuervo stated that the Board must determine beyond a reasonable doubt whether it is not the person's signature.

Ms. Olin stated that you can never tell what happens in a particular year. Challenges to the Board have happened in the past, but the last one that occurred was over 15 years ago, and it was based on alleged fraud. however, no fraud was found.

5. Review Canvassing Board Schedule

City Clerk Granado stated that there is a Logic and Accuracy test on October 13, 2021, but he cannot attend because there is a City Commission meeting that day. He asked whether Ms. Hoanshelt or Ms. Andasheva could attend on his behalf. Ms. Hoanshelt agreed to attend.

The Canvassing Board agreed by acclamation to have Ms. Hoanshelt attend the Logic and Accuracy test of October 13, 2021.

City Clerk Granado stated that the audit process will be held on November 8, 2021, and he cannot attend because there is a City Commission meeting that day. He asked Judge Cuervo and Ms. Hoanshelt to attend.

The Canvassing Board agreed by acclamation to have Judge Cuervo and Ms. Hoanshelt to attend the Audit meeting of November 8, 2021.

City Clerk Granado stated that normally the City would get the official results on Friday, November 5, 2021. But due to COVID-19, the Elections Department has agreed to have the Miami Beach results ready on Thursday, November 4, 2021, to reduce exposure to people. There are four Cities in Miami-Dade with elections: Miami Beach, Miami, Hialeah, and Homestead. Two cities will meet at the Elections Department on November 4th and two cities will meet at the Elections Department on November 5th.

Ms. Olin stated for the record that for the Audit meeting of November 8, 2021, even though it says all three members must attend, a majority does meet the condition. It is not necessary for all three to attend.

Ms. Andasheva asked whether there is any date when she needs to attend.

City Clerk Granado stated that he wants Ms. Andasheva to attend all dates to experience the process. Usually, they alternate members every other election. Ms. Hoanshelt is repeating the Canvassing Board membership because the alternate member moved away from Miami Beach. For Ms. Andasheva to get used to the process to be a regular member for the next election, he asked her to attend as many events as possible.

6. Establish criteria for acceptance of Vote-by-Mail ballots and designate Canvassing Board member(s) to act on behalf of the Board, if necessary

Ms. Olin asked the Canvassing Board that as they review ballots, they should look for consistency, because consistency under the guidelines is a basis that there is voter intent. The Canvassing Board will be examining ballots that need to be duplicated. To a degree the signature review is not so much determining voter intent, the big decisions will have to be made on what selection the voter wanted to make. There is a video online, which she can provide that she found helpful.

Judge Cuervo stated that he has viewed that video and thought it was informative, but it is difficult at times to determine the validity of signature and/or voter intent.

Ms. Olin stated that they are most likely looking at a Run-Off Election, and the certification of the official results will not occur until November 19, 2021. The final Post-Election activity is the selection of a precinct and race for Post-Election Audit. The purpose is mandatory under the State law and the majority of members must attend.

7. Review State Rule IS-2.027 Standards for Determining Voter's Choice on a ballot

Ms. Olin directed everyone to view Exhibit A.

Outside Counsel Olin explained that this Rule is an Administrative Rule enacted by the Department of State pursuant to a requirement governing manual recounts. The Statute dealing with manual recounts states that the duty of the Canvassing Board is to determine the clear intent of the voter in casting their vote. The Department of State is responsible for creating guidelines as to how the Canvassing Board determines what is clear voter intent. The Canvassing Board acts with discretion, and if it complies with the substantial compliance of the law, discretion will be upheld. There is a legal presumption that the Canvassing Board will act correctly. In addition, the Canvassing Board members are to review the entire ballot for consistency and "Accept" or "Reject" them. Post-Election, members will be advised by the Miami-Dade Elections Department of any problems with the signatures in the Vote-by-Mail or provisional ballots. The most common issues with Vote-by-Mail ballots encountered are lack signature, someone signing that is not the qualified elector (signature not matching what is on file at the Miami-Dade County Elections Department), and signatures not in close proximity to the signature line. She added that the Elections Department will send out a Cure Affidavit to the voter who did not sign or whose signature does not match. That Affidavit must be reviewed by the Canvassing Board members when submitted to the Elections Department, to make sure the signatures match or not, but if the Identification is a photo identification, even if the signature does not match, under the law, that vote can still be accepted.

City Clerk Granado explained the changes that will take place while in the Elections Department due to COVID-19 in terms of what rooms will be used and lunch/coffee breaks.

Ms. Olin notified everyone that all future Canvassing Board meetings will take place at the Office of the Supervisor of Elections (Miami-Dade County Elections Department), 2700 NW 87th Avenue, Miami, Florida 33172.

8. Open the meeting for public comment:
No member of the public was present.
9. Adjourn the meeting
Meeting adjourned at 10:22 a.m.